



Housing Secretary announces sweeping changes to Leasehold ownership

By Reanne MacKenzie

The Housing Secretary, Robert Jenrick, has announced widespread reforms to Leasehold tenure, which should free millions of people currently stuck in their own homes.

Introduction

1. Modern leasehold tenure was a form of ownership popularised by Victorian and later builders. They profited by developing the land and selling off units for a time-limited period and ensuring an income stream via ground rent. Traditionally leasehold tenure was the exclusive preserve of flats and houses were almost always sold as freehold.
2. The law developed certain protections for leasehold flat owners over the years. However, more recently, large housing developers and builders have sold houses (typically large new-build estates) on a leasehold basis. In many cases the leases contained punitive clauses that the ground rent payable would double every 10 to 20 years. This resulted in the leaseholders having to pay very large ground rents and the freehold of the property becoming prohibitively expensive for the leaseholder to purchase. Many properties became impossible to sell and mortgage companies refused to lend against these type of properties. As a result, the practice of selling new-build houses as leaseholds has attracted widespread criticism.
3. In 2017 the Government announced a review of what campaigners have referred to as the “leasehold rip-off” scandal.
4. This was followed by a series of reports on the issue published by the Law Commission in July 2020 including:
 - a. *“Leasehold home ownership: buying your freehold or extending your lease”*

- b. *“Reinvigorating commonhold: the alternative to leasehold ownership”*
 - c. *“Leasehold home ownership: exercising the right to manage”*
5. These can be found here (<https://www.lawcom.gov.uk/project/leasehold-enfranchisement>).

The new reforms

6. The Government has now announced (on 7 January 2021) reforms that will be put in place as a result of this review. Not all of the Law Commission’s recommendations are to be adopted at this stage. The package of reforms announced includes:
 - Both house and flat leaseholders will be able to extend their lease to a new standard 990 years with a ground rent at zero.
 - A cap will be introduced on ground rent payable when a leaseholder chooses to either extend their lease or become the freeholder.
 - An online calculator will be introduced to make it simpler for leaseholders to find out how much it will cost them to buy their freehold or extend their lease.
 - The ‘marriage value’¹ element of the premium calculation is to be abolished and set calculation rates used to ensure a fairer, cheaper and more transparent process.
 - In order to protect the elderly, the commitment to restricting ground rents to zero for new leases will also now apply to retirement leasehold properties (i.e. those homes built specifically for older people). Purchasers of these homes

¹ The increase in the total property value following a lease extension or collective enfranchisement i.e. by having the leasehold and freehold tenure being married together in one owner.

will have the same rights as other homeowners and will be protected from uncertain and unfair practices.

- Leaseholders will be able to voluntarily agree to a restriction on future development of their property to avoid paying ‘development value’.
- Establishing a Commonhold Council (a partnership of leasehold groups, industry and government) that will prepare homeowners and the market for the widespread take-up of commonhold.

7. The commonhold model is widely used around the world (such as condominiums or “condos” in the United States and Australia) but its adoption has been slow in the UK since it was introduced by the Commonhold and Leasehold Reform Act 2002. Commonhold is a hybrid model whereby each individual flat or house is owned by each resident, but the common areas are jointly owned and managed by the collective group. The Law Commission has recommended the replacement of leasehold tenure with commonhold tenure for new homes.

Analysis

8. These reforms will be welcomed by the millions of people currently stuck in homes that are or may have otherwise become unsaleable. These reforms should also galvanise the under-utilised commonhold tenure.
9. Of course, it remains to be seen exactly how and when these new reforms will be made law. The Government states that legislation will be brought forward in the upcoming session of Parliament, however exactly when these reforms will come into force remains unknown.
10. Marriage value will no longer form part of the premium calculation and from the tenants’ perspective it will be a welcome relief that the standard length of lease extension will be 990 years at zero ground rent.

11. Whilst these reforms have been in the pipeline for a number of years, the timing is apposite: the Coronavirus pandemic and multiple lockdowns mean we have spent more continual time at home than ever before. If enacted, these reforms will give millions of leasehold owners the ability to sell properties they have outgrown which should, in turn, increase the volume of property transactions in England and Wales.

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